

## BONUSES AND INCENTIVES

If a contract contains any provision or clause providing any type of payment no matter the purpose, timing or amount, as a prelude to retirement, this payment is termination pay. This payment must be made payable at the time of termination and retirement and will be used in the calculation of AFC, if the member elects termination pay, Option 1 or 2.

### TERMINATION PAY – IRREVOCABLE ELECTION FORM

Members of the TRS have the option to have their contributions deducted from termination pay on a tax-deferred basis. In other words, the member contributions can be deducted from the termination pay amount and reported to the TRS before Federal and State income taxes are withheld. The termination pay will continue to be subject to Social Security withholding.

If a TRS member elects termination pay Option 1 or 2, the employee must pay the required employee contributions due the TRS and the employer must pay the required employer contributions due the TRS. In other words, the employee cannot pay both the employee and employer contributions due the TRS. (Ref: §19-20-716, MCA.)

In order to qualify for the tax-deferral of contributions, the ‘Termination Pay – Irrevocable Election Form’ must be executed by the TRS member and the TRS employer at least 90 days prior to the member’s termination date. Please visit the TRS web site at <http://www.trs.mt.gov> for the ‘Termination Pay – Irrevocable Election Form’, and a complete copy of instructions. The ‘Termination Pay – Irrevocable Election Form’ must be signed by both the TRS member and the TRS employer at least 90 days prior to the member’s termination. It is generally assumed that the last day of teaching will be the date of termination. If this assumption is not correct, please notify the TRS of the correct termination date to avoid any unnecessary delay in processing a member’s benefit.

If the TRS employee has signed a “Termination Pay - Irrevocable Election Form” and elected termination pay Option 1 or 2, the gross amount of their termination pay will be subject to Social Security withholding, however Federal and Montana State income taxes will not be withheld from the employee contributions deducted from their termination pay and reported to the TRS. The employee may not change their termination pay option election if a valid “Termination Pay – Irrevocable Election Form” has been executed.

If the TRS employee has not signed a “Termination Pay - Irrevocable Election Form” or the 90-day requirement is not satisfied, and elected termination pay Option 1 or 2, the employee contributions due on termination pay will not be tax-deferred and Federal, Montana State, and Social Security taxes must be withheld from the gross amount of termination pay received. You must pay the net amount of the termination pay to the TRS employee and advise the employee that they must remit the TRS employee contributions due the TRS by personal check. In addition, the employee contributions due on termination pay may be limited under IRC Section 415 (c).

The “Termination Pay Form” is to be retained in your office until the TRS employee has been fully terminated, all wages have been paid, and the termination pay amount has been determined. Please attach this “Termination Pay Form” to your monthly report with which you submit the employee and/or employer contributions due the TRS.

Termination pay must be paid at the time of termination and retirement to be included in the calculation of benefits. If termination pay is paid to the retiring TRS member within 60 days of termination, it will be considered paid at the time of termination. The TRS employer is responsible for correctly reporting termination pay to the TRS, withholding employee contributions if the ‘Termination Pay – Irrevocable Election Form’ is in place, and reporting the correct amount on the member’s Form W-2. If the employer is withholding the employee’s termination pay contributions as tax-deferred, both the employee and employer contributions due the TRS must be remitted with the employer’s regular monthly contribution report.

## TERMINATION PAY CONTRIBUTION RATES

<b>Retirement Age</b>	<b>Employee Rate</b>	<b>Employer Rate</b>	<b>Total Percent of Termination Pay</b>
45	4.00%	4.18%	8.18%
46	3.97%	4.14%	8.11%
47	3.94%	4.11%	8.05%
48	3.90%	4.08%	7.98%
49	3.87%	4.04%	7.91%
50	3.83%	4.00%	7.83%
51	3.80%	3.96%	7.76%
52	3.75%	3.92%	7.67%
53	3.71%	3.88%	7.59%
54	3.67%	3.83%	7.50%
55	3.62%	3.78%	7.40%
56	3.57%	3.73%	7.30%
57	3.52%	3.68%	7.20%
58	3.47%	3.62%	7.09%
59	3.41%	3.57%	6.98%
60	3.36%	3.51%	6.87%
61	3.30%	3.45%	6.75%
62	3.24%	3.39%	6.63%
63	3.18%	3.33%	6.51%
64	3.12%	3.26%	6.38%
65	3.06%	3.19%	6.25%
66	2.99%	3.12%	6.11%
67	2.92%	3.06%	5.98%
68	2.86%	2.98%	5.84%
69	2.79%	2.91%	5.70%
70	2.72%	2.84%	5.56%
71	2.65%	2.77%	5.42%
72	2.58%	2.69%	5.27%
73	2.50%	2.62%	5.12%
74	2.43%	2.53%	4.96%
75	2.35%	2.46%	4.81%
76	2.27%	2.38%	4.65%
77	2.20%	2.29%	4.49%
78	2.12%	2.21%	4.33%
79	2.03%	2.13%	4.16%
80	1.96%	2.04%	4.00%
81	1.88%	1.96%	3.84%
82	1.80%	1.88%	3.68%
83	1.72%	1.80%	3.52%
84	1.64%	1.72%	3.36%
85	1.57%	1.64%	3.21%
86	1.50%	1.56%	3.06%



**MONTANA  
TEACHERS' RETIREMENT SYSTEM**

1500 E 6TH AVE  
PO BOX 200139  
HELENA MT 59620-0139  
(406) 444-3134

**TRS Office Use Only**

**TERMINATION PAY**

PLEASE REVIEW INSTRUCTIONS ON REVERSE SIDE  
(PLEASE TYPE OR PRINT LEGIBLY IN DARK INK.)

**I. THE FOLLOWING IS TO BE COMPLETED BY THE EMPLOYEE:**

Joan P Doe

(Name)

01-01-48

(Date of Birth)

1 1 1 1 1 1 1 1 1 1

(Social Security Number)

1111 S Freedom St

(Home Mailing Address)

Helena MT 59601

(City, State & Zip Code)

(406) 111-2222

(Area Code & Telephone Number)

I hereby elect the following termination pay option (Initial only one): **OPTION 1 JPD** **OPTION 2** **OPTION 3**

I have signed a "Termination Pay - Irrevocable Election Form", at least 90 days prior to my termination of employment, indicating my desire to remit contributions due on termination pay as tax deferred (Initial only one) YES **X** NO

*Joan P Doe*

11-10-04

(Signature)

(Date)

**II. THE FOLLOWING MUST BE COMPLETED BY THE EMPLOYER:**

Date of Termination 06-15-05 Termination Pay Amount \$5,000.00

Will employee contributions due on termination pay be remitted as tax-deferred. (Circle Only One) **YES** or NO

Please verify the following: (Do not include Termination Pay Amount)

Base Contract Amount \$ 35,000 Other Compensation \$ 2,000.00 Explanation: Basketball Coach \$1,500 and Driver's Ed \$500

I certify that the above named individual has terminated their employment and will receive the following termination payment upon their termination and contributions will be withheld on this amount and reported to the Teachers' Retirement System, if applicable. I understand the member must make personal payment for the employee contributions due if a valid Termination Pay - Irrevocable Election Form has not been signed. I also certify that the termination pay

Authorized Representative

11-04-04

(Signature)

(Date)

District Clerk

(Printed Name & Title)

120011

(TRS Employer Number)

(406) 235-2000

(Area Code & Telephone Number)

**III. CALCULATION OF CONTRIBUTIONS DUE ON TERMINATION PAY:**

**OPTION 1: (A) EMPLOYEE CONTRIBUTIONS**

Employee's Age at Retirement 49

\$ 5,000.00 X 3.74 % X 28.00 = \$ 5,236.00  
Termination Pay See Termination Pay Contribution Rate Table Creditable Service Contribution Due

Amount of Employee Contributions Due To Be Remitted By Employer - Tax-Deferred \$ 4,600.00

Amount of Employee Contributions Due To Be Remitted by Member - Personal Payment \$ 636.00

**(B) EMPLOYER CONTRIBUTIONS**

\$ 5,000.00 X 3.96 % X 28.00 = \$ 5,544.00  
Termination Pay See Termination Pay Contribution Rate Table Creditable Service Contribution Due

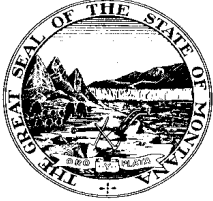
**OPTION 2: (A) EMPLOYEE CONTRIBUTION RATE** 7.150% X \$                      = \$                     

Amount of Employee Contributions Due To Be Remitted By Employer - Tax-Deferred \$                     

Amount of Employee Contributions Due To Be Remitted By Employee - Personal Payment \$                     

**(B) EMPLOYER CONTRIBUTION RATE** 7.470% X \$                      = \$                     

The employee and employer contributions due on termination pay **must** be remitted by the 15th of the month following termination. The completed termination pay form **must** accompany the monthly report with which you submit the employee and employer contributions due. If the contributions due are not submitted in a timely manner, interest will be assessed.



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**TERMINATION PAY**

PLEASE REVIEW INSTRUCTIONS ON REVERSE SIDE  
(PLEASE TYPE OR PRINT LEGIBLY IN DARK INK.)

**I. THE FOLLOWING IS TO BE COMPLETED BY THE EMPLOYEE:**

Joan P Doe

(Name)

01-01-48

(Date of Birth)

1 1 1 1 1 1 1 1 1 1

(Social Security Number)

1111 S Freedom St

(Home Mailing Address)

Helena MT 59601

(City, State & Zip Code)

(406) 111-2222

(Area Code & Telephone Number)

I hereby elect the following termination pay option (Initial only one): **OPTION 1** \_\_\_\_\_ **OPTION 2** JPD **OPTION 3** \_\_\_\_\_

I have signed a "Termination Pay - Irrevocable Election Form", at least 90 days prior to my termination of employment, indicating my desire to remit contributions due on termination pay as tax deferred (Initial only one) YES X NO \_\_\_\_\_

*Joan P Doe*

11-10-04

(Signature)

(Date)

**II. THE FOLLOWING MUST BE COMPLETED BY THE EMPLOYER:**

Date of Termination 06-15-05 Termination Pay Amount \$5,000.00

Will employee contributions due on termination pay be remitted as tax-deferred. (Circle Only One) YES or NO

Please verify the following: (Do not include Termination Pay Amount)

Base Contract Amount \$ 35,000 Other Compensation \$ 2,000.00 Explanation: Basketball Coach \$1,500 and Driver's Ed \$500

I certify that the above named individual has terminated their employment and will receive the following termination payment upon their termination and contributions will be withheld on this amount and reported to the Teachers' Retirement System, if applicable. I understand the member must make personal payment for the employee contributions due if a valid Termination Pay - Irrevocable Election Form has not been signed. I also certify that the termination pay

Authorized Representative

11-04-04

(Signature)

(Date)

District Clerk

(Printed Name & Title)

120011

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**III. CALCULATION OF CONTRIBUTIONS DUE ON TERMINATION PAY:**

**OPTION 1: (A) EMPLOYEE CONTRIBUTIONS**

Employee's Age at Retirement \_\_\_\_\_

\$ \_\_\_\_\_ X \_\_\_\_\_ % X \_\_\_\_\_ = \$ \_\_\_\_\_  
Termination Pay See Termination Pay Contribution Rate Table Creditable Service Contribution Due

Amount of Employee Contributions Due To Be Remitted By Employer - Tax-Deferred \$ \_\_\_\_\_

Amount of Employee Contributions Due To Be Remitted by Member - Personal Payment \$ \_\_\_\_\_

**(B) EMPLOYER CONTRIBUTIONS**

\$ \_\_\_\_\_ X \_\_\_\_\_ % X \_\_\_\_\_ = \$ \_\_\_\_\_  
Termination Pay See Termination Pay Contribution Rate Table Creditable Service Contribution Due

**OPTION 2: (A) EMPLOYEE CONTRIBUTION RATE** 7.150% X \$ 5,000.00 = \$ 357.50

Amount of Employee Contributions Due To Be Remitted By Employer - Tax-Deferred \$ \_\_\_\_\_

Amount of Employee Contributions Due To Be Remitted By Employee - Personal Payment \$ \_\_\_\_\_

**(B) EMPLOYER CONTRIBUTION RATE** 7.470% X \$ 5,000.00 = \$ 373.50

The employee and employer contributions due on termination pay **must** be remitted by the 15th of the month following termination. The completed termination pay form **must** accompany the monthly report with which you submit the employee and employer contributions due. If the contributions due are not submitted in a timely manner, interest will be assessed.

## **SECTION 8 RETIREE/BENEFICIARY INFORMATION**

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## INTERNET ACCESS TO THE TRS

General information regarding benefit recipients of the TRS, including commonly used TRS forms, may be obtained by logging on to our website at <http://www.trs.mt.gov>.

### PART-TIME EMPLOYMENT AFTER RETIREMENT EARNINGS

House Bill 104 passed during the 2005 Legislative Session changing when benefits are cancelled for working retiree's in a part-time position. This legislation also adds a dollar-for-dollar benefit reduction when a working retiree exceeds the maximum amount they are allowed to earn.

Under the statutes governing the Montana TRS, any retired member may be employed in a part-time or substitute position eligible to participate in the TRS and earn, without loss of their retirement benefits, an amount not to exceed the greater of: (1) one-third of their average final compensation (AFC), plus annual increases equal to the increase in the Consumer Price Index (CPI) in the preceding calendar year(s) since their date of retirement; or (2) one-third of the Median AFC for members retired during the preceding fiscal year as determined by the TRS Board. These earnings are determined on a fiscal year basis, July 1 through June 30.

A "retired member" is defined as a TRS member who has terminated all positions eligible to participate in the TRS, and who has received at least one monthly retirement benefit. (Ref: §19-20-101, MCA.)

The TRS retired payroll staff will determine the maximum amount the TRS retiree can earn without affecting their monthly benefit. Contact the TRS at (406) 444-3185 or (406) 444-3135 to verify this information. If the retiree earns more than the allowable amount or signs a full-time contract with your agency, please contact the TRS immediately.

The TRS retirees are only limited in the amount they may earn if employed in a position that is eligible to participate in the Montana TRS. (Ref: §19-20-804, MCA.)

TRS retirees who are employed part-time in a position eligible to participate in the Montana TRS are not required to contribute to the retirement system until their earnings over the maximum allowed exceed their gross monthly benefit amount. However, it is required that retired TRS members working in a position eligible to participate in the Montana TRS be reported on the employer's 'Monthly Contribution Report' for the purpose of tracking gross earnings after retirement. (See Section 4)

Should a Montana TRS retiree sign a full-time contract, their retirement benefits will cease the effective date of the signed, full-time contract. In addition, they will be reinstated to active membership status.

If a Montana TRS retiree is employed part-time and exceeds the maximum amount they are allowed to earn, their monthly retirement benefit will be reduced dollar-for-dollar if they exceed the maximum amount they are allowed to earn. The TRS retiree's monthly benefit will be reduced beginning as soon as practical after their employer(s) have reported the excess earnings. The TRS retiree's retirement benefit will be cancelled if their earnings over the maximum allowed exceed their gross monthly benefit amount. Additionally, the TRS retiree will be reinstated to active membership status and contributions will be due on all earnings that exceed their gross monthly benefit amount.

If a Montana TRS retiree is reinstated to active membership, all service credit at the time of their retirement will be restored in full to their account. If they were to return to active status for the equivalent of at least one full-time school year, their monthly retirement benefit would be recalculated at the time they reapply for retirement benefits based upon the additional service credit. Otherwise, the TRS retiree will be reinstated to retired status with the same benefit and option they were receiving before returning to work. (Ref: § 19-20-804 MCA.)

## MEDIAN AFC HISTORY

FISCAL YEAR	MEDIAN SALARY	1/3 OF MEDIAN SALARY
1999-00	\$43,945.06	\$14,648.35
2000-01	\$45,528.45	\$15,176.15
2001-02	\$45,304.46	\$15,101.49
2002-03	\$45,290.43	\$15,096.81
2003-04	\$47,942.54	\$15,980.85
2004-05	\$47,417.01	\$15,805.67

## EARNINGS AFTER DISABILITY RETIREMENT

A disabled TRS retiree may return to part-time employment provided their combined disability benefit and earnings do not exceed the greater of their AFC or the Median AFC of those members retired during the preceding fiscal year as determined by the TRS Board. Should their combined earnings and disability benefits exceed the maximum allowable under the law, their disability benefit will be reduced so that a combination of earnings and disability benefits does not exceed the greater of their AFC or the Median AFC of those members who retired during the preceding fiscal year. (Ref: §19-20-904, MCA.)

A disabled TRS retiree's benefits will be canceled if they are employed full-time by a public or private educational institution as an educator, or in any other related capacity identified under the TRS.

## REPORTABLE EARNED COMPENSATION FOR WORKING RETIREES

Reportable earned compensation represents a TRS retiree's base part-time contract and any additional instructional duties, to include, summer teaching contracts/summer school, coaching, and drivers' education. Earnings that are not reportable to the TRS include bus driving, custodian, ticket taking, hall monitoring, or food services/cafeteria. These earnings are also not reportable for active members.

Examples of other employer benefits **not** reportable to the TRS include, but are not limited to the following:

1. Employer premium payments on behalf of TRS retiree's for health or dependent care expense accounts or any employer contribution for health, medical, pharmaceutical, disability, life, vision, dental, or any other insurance.
2. Any employer payment or reimbursement for professional membership dues, maintenance, housing, day care, automobile, travel, lodging, entertaining expenses, or any similar payment for any form of maintenance, allowance, or expenses.
3. The imputed value of health, life, or disability insurance.
4. Any non-cash benefit provided by an employer to or on behalf of a TRS retiree.
5. Any lump-sum payment of unused, accumulated sick or annual leave, excess leave balance payments, any early retirement incentive severance payment, or one-time incentives or bonuses.

## EXEMPTION FROM LEGAL PROCESS

The retirement allowance or any benefits accrued or accruing to any person under the provisions of the TRS and the accumulated contributions, cash and securities in the various funds of the retirement system are not subject to execution, garnishment, attachment by trustee process or otherwise, in law or equity, or any other process; and may not be assigned, except under the limited provisions of a Family Law Order (FLO). (Ref: §19-20-706, MCA.)

## INDEPENDENT CONTRACTORS

An independent contractor is ineligible for membership in the TRS. The TRS Board shall accept a certification from the Montana Department of Labor and Industry (DLI) as prima facie evidence of independent contractor status. The burden of proof before the TRS Board is on the TRS employer. If the TRS retired member's status as an independent contractor is in question, they must become a member of the TRS. (Ref: §19-20-302, MCA)

Hiring employees as independent contractors must be evaluated under the IRS's test of independent contractor status. The IRS has identified twenty factors or elements as indicating whether sufficient control is present to establish an employer-employee relationship. (Rev. Ruling 87-41) The degree of importance of each factor varies depending on the occupation and the factual context in which the services are performed. In most cases schools must, of necessity, have the requisite right to direct and control its teachers and administrators as to all significant performance issues: hours, goals, curriculum, and termination; therefore these individuals generally would not meet the test of independent contractor status. Employers should be aware that "labeling" a person an independent contractor is not determinative of that status — control is.

Montana law provides for a civil penalty of \$1,000 for each false statement or misrepresentation made concerning a person's status as an independent contractor. Montana law also prohibits employees from waiving their rights under the workers' compensation and unemployment insurance acts. An employer who avoids these responsibilities may be committing employer misconduct, a felony, punishable by up to 10 years in prison and/or a \$50,000 fine. For more information, please contact the DLI Independent Contractor Central Unit at (406) 444-1446.

## WITHHOLDING GROUP INSURANCE PREMIUMS FROM RETIREMENT BENEFITS

A TRS benefit recipient who continues to participate in the employer's group insurance plan may elect to have their premiums withheld from their monthly TRS benefit. To initiate the withholding of monthly insurance premiums the benefit recipient must contact the payroll clerk or the Human Resource office at the place of their former employment, or the TRS office at (406) 444-3185, for the 'Authorization For Deduction of Health Insurance' form. The health insurance deduction form is also available on the TRS web site at <http://www.trs.mt.gov>.

The TRS employer must provide a properly completed 'Authorization For Deduction of Health Insurance' form to the TRS office. The TRS employer must certify the eligibility of all TRS benefit recipients electing to have insurance premiums withheld from their monthly retirement allowance, and the name of the insurance carrier, the monthly premium amount to be withheld each month and the month the first deduction is to begin. (Ref: ARM 2.44.513)

Monthly insurance premiums must be paid in advance. At commencement of monthly benefits, withholding can only be started on the TRS benefit recipient's second monthly retirement allowance. The TRS benefit recipient must pay the premium between that time and the date of retirement direct to the TRS employing agency.

The TRS employer must submit all subsequent premium rate changes in writing to the TRS. These changes must be noted on a photocopy of the previous month's 'Payroll Insurance Premium Withholding Listing' that is provided by the TRS. Please note the changes in blue or black ink only, and sign and date the request. A faxed copy of a change of premium will not be accepted as permanent documentation by the TRS.

In order to allow the TRS adequate time to initiate the withholding of insurance premiums, or to make subsequent premium rate changes, the TRS must receive notification prior to the 15<sup>th</sup> day of the month. Due to the large number of school districts and the university units involved in this process, and the even larger number of TRS benefit recipients taking advantage of this service, **no** exceptions can be allowed to this deadline.

The TRS has no connection with group insurance plans, but offers this withholding as a service to you and our benefit recipients. As a result, all insurance related questions will be referred to the payroll office at the school district or the Human Resource office of the university unit. The benefit recipient's annual tax Form 1099-R will note the insurance premiums withheld for each calendar year.

A 'Payroll Insurance Premium Withholding Listing' and a state warrant will be sent directly to you, the employer, on the last business day of each month. At your request, the state warrant that is generated each month by the TRS for insurance premiums can be made payable to either the employer or to the insurance carrier. Regardless of the option elected, the state warrant and the 'Payroll Insurance Premium Withholding Listing' will be sent direct to you. If you have questions or need assistance, contact the TRS at (406) 444-3185.



# MONTANA TEACHERS' RETIREMENT SYSTEM

1500 E 6TH AVE  
PO BOX 200139  
HELENA MT 59620-0139  
(406) 444-3134

**TRS Office Use Only**

## AUTHORIZATION FOR DEDUCTION OF HEALTH INSURANCE

**(PLEASE TYPE OR PRINT LEGIBLY IN DARK INK)**

Monthly insurance premiums **must** be paid in advance. At commencement of monthly benefits, withholding can only be started on the benefit recipient's **second** monthly retirement allowance. Accordingly, the benefit recipient must pay any premium(s) due, which arises between their date of retirement and their second monthly benefit, directly to the employing agency. All future payments will be made directly through deductions from the Teachers' Retirement System (TRS) monthly retirement allowance.

### **BENEFIT RECIPIENT'S INFORMATION:**

Joan P Doe

(Recipient's Name)

01-01-48

(Date of Birth)

1	1	1	1	1	1	1	1	1	1
---	---	---	---	---	---	---	---	---	---

(Social Security Number)

1111 S Freedom Way

(Home Mailing Address)

Helena MT 59601

(City, State & Zip Code)

(406) 111-2222

(Area Code & Telephone Number)

I hereby authorize deduction of the monthly rate in effect for the coverage I have selected through the employing agency from my monthly retirement allowance. Such deduction is to remain in effect until the employing agency cancels or changes my insurance coverage amount. I also authorize future increases or decreases in the cost of the plan I selected to be automatically deducted without further authorization from me.

Joan P Doe

11-10-04

**(Signature of Benefit Recipient)**

**(Date)**

**NOTICE TO EMPLOYER:** All authorization forms, changes or cancellations must be channeled through you. You **must** provide written notification of changes of the premium amount to both the TRS and the benefit recipient **prior** to the 15th day of the effective month. Upon notification of the benefit recipient's death, you **must** directly reimburse the TRS the gross monthly premium amount withheld.

### **TO BE COMPLETED BY THE EMPLOYER:**

Mary K Lewis

Name of Insurance Coordinator

(406) 449-0002

(Area Code & Telephone Number)

Blue Cross Blue Shield of Montana

Name of Insurance Carrier

250011

TRS Employer Number

\$239.70

Monthly Premium Amount

Monthly retirement allowances are paid on the last business day of each month. The first deduction from the monthly retirement allowance is to

begin in the month of June 2005, to cover the insurance premium for the month of July 2005.

Mary K Lewis

11-10-04

**(Signature of Insurance Coordinator)**

**(Date)**

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